THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5930 of 2003

Date: 01.08.2007

Between:

Akula Swabu Prasad.

..... PETITIONER

AND

Bharat Sanchar Nigam Limited (BSNL),
rep. by its Chief General Manager,
Door Sanchar Bhavan, Nampally, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5930 of 2003

Order:

This writ petition is filed seeking to declare the action of the respondents in contemplating to disconnect Telephone No. 23787, provided to the residence of the petitioner at Challapalli village, as illegal and arbitrary, and consequently to direct the respondents not to disconnect the said telephone connection.

The petitioner states that based on his application, the respondents installed Telephone No. 23787 with STD facility at his residence, situated at Nethaji Road, Challapalli, on 30.01.2002, and since then he has been using the said telephone by regularly paying telephone bills and he never committed any default in payment of telephone bills. The case of the petitioner is that on 09.05.2002 the respondents, without giving any notice, disconnected the telephone connection to his house alleging that he is not residing there and his son-in-law, namely L.V. Bala Gangadhara Rao, was misusing his telephone. Thereupon, the petitioner got a legal notice issued to the respondents requesting them to restore the telephone connection, and on receipt of the said notice, the respondents restored the telephone connection, but without STD facility. Thereafter, he again got issued another legal notice requesting the respondents to restore STD facility also, for which the 3rd respondent gave reply alleging that his telephone was put to unauthorized use by L.V. Bala Gangadhar Rao, who was a defaulter in respect of Telephone No. 22060 of Challapalli, and asked

him to shift his telephone to his present residence or else his telephone would be liable for disconnection under Rule 421 of Indian Telegraph Rules. His further case is that the 2nd respondent addressed a letter dated 11.03.2003 to his son-in-law L.V. Bala Gangadhara Rao, directing him to clear the outstanding due amount of Rs.20,079/- payable by his relative

L. Venkateswara Rao in respect of closed Telephone

No.CLL-22060, otherwise Telephone No. 23787, standing in the name of the petitioner, would be disconnected. Hence, the petitioner filed the present writ petition questioning the action of the respondents in contemplating to disconnect his Telephone

No. 23787 on the ground that late L. Venkateswara Rao and

L.V. Bala Gangadhara Rao failed to pay the arrears in respect of Telephone No. 22060.

The respondents filed a detailed counter affidavit along with material papers.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-BSNL, and perused the material on record.

On a perusal of the counter affidavit coupled with the material filed by the respondent-BSNL, the following undisputed facts emerge. In pursuance of the application submitted by the petitioner, he was provided with Telephone No. 23787 with STD facility at his residence, situated at Door No.17-1, Nethaji Road, Challapalli, on 30.01.2002. On 20.04.2002, when the Sub-Divisional Officer along with the Junior Telecom Officer, Challapalli, inspected the said premises of the petitioner, they found that the petitioner, who is the original subscriber of Telephone No. 23787, was not residing there and the said telephone was under the unauthorized use of one L.V. Balagangadhara Rao, who claimed to be the son-in-law of the petitioner. Therefore, to avoid

misuse of the telephone, the same was temporarily disconnected with effect from 09.05.2002, and the Sub-Divisional Officer, by letter dated 22.05.2002, intimated the same to the petitioner and advised him to apply for external shifting of telephone to the premises, where he is actually residing. But, there is no response from the petitioner to the said letter. However, as per the directions of the SDOT, Challapalli, the telephone was reconnected on 16.07.2002, and thereafter a notice under the provisions of Rule 421 of Indian Telegraph Rules, 1951 was issued to the petitioner by the Divisional Engineer Telecom, Challapalli on 19.07.2002 directing the petitioner to make a request for shifting of telephone within seven days, failing which the telephone will be disconnected without further notice. But, all the letters, which were addressed to the petitioner, were received by L.V. Balagangadhara Rao at the given address. Further it reveals that the said L.V. Balagangadhara Rao earlier used Telephone No. 22060, which was provided to his uncle, namely Lanka Venkateswara Rao, and failed to pay the telephone bills, and in view of the death of Lanka Venkateswara Rao, a letter was addressed to L.V. Balagangadhara Rao requesting him to pay the outstanding due amount of Rs.20,079/- in respect of his uncle's closed Telephone No. CLL 22060, for which L.V. Balagangadhara Rao sent a reply denying the relationship and using of the said Telephone.

All the afore said circumstances, read with the verification reports of the Officers concerned, clearly establish that the petitioner is not residing at the place, where Telephone
No. 23787 is installed, and the said Telephone was under the unauthorized use of L.V. Balagangadhara Rao. The respondents, therefore, with a view to protect the interest of the Department, particularly with reference to the amounts payable by virtue of using of the Telephone, directed the petitioner to make a representation for

shifting of Telephone No. 23787 to the place where he is presently residing, which cannot be found fault with, more so when L.V. Balagangadhara Rao earlier used Telephone No. 22060, which was provided to his uncle, namely Lanka Venkateswara Rao, and failed to pay the outstanding due amount of Rs.20,079/-, in spite of addressing letters to him by the respondents.

In the circumstances, the relief sought by the petitioner to direct the respondents not to disconnect Telephone No. 23787 cannot be granted on the ground of misuse. However, having in view of the averments made by the respondents in the counter that if the petitioner gives an undertaking that he would not let his telephone be used by others, other than himself, and if he clears up to date all the arrears of bills, the STD facility will be restored immediately, it is for him to give such an undertaking and clear the arrears of bills, if he wants restoration of the STD facility. If the petitioner wants to use Telephone No. 23787 at the premises where he is presently residing, he is at liberty to make an application for shifting of the said telephone to the address, where he is presently residing, and on making such application; the respondents shall consider the same and take appropriate action in the matter in accordance with law.

With the above observation, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 01.08.2007
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